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CHAPTER 22A

SEWAGE INFRASTRUCTURE IMPROVEMENT ACT GRANTS

SUBCHAPTER 1. GENERAL PROVISIONS

7:22A-1.1 Purpose

(a) This chapter prescribes the rules of the Department for the distribution of grant moneys to affected municipalities and other local government units to implement the requirements of the Act. The purpose of the rules is to prevent, control and abate water pollution caused by the discharge of untreated sewage and point and nonpoint source pollutants from stormwater sewer systems and combined sewer systems.

(b) In addition, this chapter is established to assure that the distribution and use of the moneys in the Fund is consistent with the Act and the policies of the State.

7:22A-1.2 Scope

(a) This chapter shall constitute the rules governing the Department's implementation of the Sewage Infrastructure Improvement Act, N.J.S.A. 58:25-23 et seq.

(b) The Act requires all affected municipalities to adopt a map of their stormwater sewer system, monitor stormwater outfall pipes and take appropriate abatement measures for interconnections, cross-connections and nonpoint sources of pollution.

(c) The Act requires any local government unit controlling or operating a combined sewer system within the State to provide appropriate pollution abatement measures at combined sewer overflow points.

(d) Any affected municipality may apply to the Department for a grant to prepare a preliminary map and inventory of their stormwater sewer system, or prepare a final map in accordance with N.J.A.C. 7:22A-4.

(e) Any local government unit authorized to control or operate a combined sewer system may apply to the Department for a grant for the planning and design of dry weather overflow elimination and/or solids/floatables reduction at combined sewer overflow points.

(f) This chapter also governs the Department's disbursement of funds from the Stormwater Management and Combined Sewer Overflow Abatement Bond Act of 1989 (P.L. 1989, c.181) for the performance of activities required by the Sewage Infrastructure Improvement Act.

7:22A-1.3 Construction of rules

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This chapter shall be liberally construed to permit the Department to discharge its statutory functions under the Act and the Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq.

7:22A-1.4 Definitions

The following words and terms when used in this chapter shall have the following meanings, unless the context clearly indicates otherwise.

"Act" means the New Jersey Sewage Infrastructure Improvement Act, N.J.S.A. 58:25-23 et seq.

"Affected municipality" means any municipality with a stormwater sewer system discharging directly into the salt waters of Monmouth, Ocean, Atlantic or Cape May counties.

"Allowable costs" means those costs that are eligible, reasonable, necessary and allocable to the project, permitted by generally accepted accounting principles, approved by the Department in the grant agreement, and/or otherwise determined to be allowable pursuant to this chapter.

"Applicant" means any local government unit or affected municipality that applies for financial assistance pursuant to the provisions of this chapter.

"Certified mail" means any means of delivery where proof of delivery is obtained and date of receipt is recorded.

"Cesspool" means a type of covered pit as defined in N.J.A.C. 7:9A-2.1.

"Combined sewer system" means a sewer system that is designed to carry sanitary sewage at all times and that is also designed to collect and transport stormwater from streets and other sources, thus serving a combined purpose.

"Combined sewer overflow" means the excess flow from a combined sewer system which is not conveyed to the plant for treatment, but transmitted by pipe or other channel directly to waters of the State.

"Combined sewer overflow abatement facilities" includes, but is not limited to, any equipment, plants, structures, machinery, or apparatus, or any combination thereof, acquired, used, constructed, or operated by or on behalf of a local government unit for storage, collection, reduction, recycling, disinfection, reclamation, disposal, separation or other treatment essential to the abatement of combined sewer overflows. Such abatement measures include the elimination of dry weather overflows and the reduction of solids/floatables at combined sewer overflow points.

"Combined Sewer Overflow Account" means the component of the Municipal

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Stormwater Management and Combined Sewer Overflow Abatement Assistance Fund or the Stormwater Management and Combined Sewer Overflow Abatement Fund, as determined by the Department, which will be used to provide grants to local government units for the planning and design of combined sewer overflow abatement facilities.

"Combined sewer overflow point" means a discrete point in a combined sewer system which provides for the release of combined sewer overflows.

"Cross-connection" means the permitted or unpermitted physical connection of a wastewater line to a stormwater sewer system. A cross-connection shall not include a physical connection where the wastewater line carries only stormwater.

"Department" means the New Jersey Department of Environmental Protection and its successors and assigns.

"Design" includes, but is not limited to, the engineering, architectural, legal, fiscal and economic investigations and studies, surveys, designs, plans, working drawings, specifications and other action necessary to design appropriate abatement facilities.

"Discharge Allocation Certificate" (DAC) means the certificate issued by the Department pursuant to N.J.A.C. 7:14A-3.3 which designates the quantity and quality of pollutants which may be discharged by any person planning to undertake any activity which will result in a discharge to surface water or a substantial modification in a discharge to surface water.

"Domestic pollutant" means a pollutant which results from the discharge of household, commercial or other wastes from bathrooms, toilet facilities, home laundries and kitchens which are predominantly the result of natural human waste elimination associated with bodily function and food preparation.

"Dry weather overflow" means a type of combined sewer overflow which is not the direct result of an increase in wastewater flows due to an event of precipitation.

"Economically disadvantaged individuals" as defined in 15 U.S.C. 637(a)(6) means those socially disadvantaged individuals whose ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same business area who are not socially disadvantaged individuals.

"Excessive bacteria level" means a bacteria level above the standards set forth in N.J.A.C. 7:22A-4.7.

"Facilities" means any component or appurtenance of any sanitary or stormwater sewer system.

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"Federal grant" means a grant awarded pursuant to section 201 of the Federal Water Pollution Control Act Amendments of 1972 (33 U.S.C. 1251 et seq.) and any amendments or supplements thereto.

"Final map" means the map, required by N.J.S.A. 58:25-25, adopted by the affected municipality that locates, lists and numbers all stormwater sewer and sanitary sewer lines within the geographical boundaries of the municipality, which are part of any stormwater sewer system that discharges into surface waters. The map shall also identify all cross-connections and known interconnections between stormwater and sanitary sewer systems, and indicate whether the cross-connections have received a permit from the Department.

"Force account work" means the use of the recipient's own employees or equipment for approved planning or design related activities.

"Fund" means the Municipal Stormwater Management and Combined Sewer Overflow Abatement Assistance Fund established by the Sewage Infrastructure Improvement Act, N.J.S.A. 58:25-23 et seq., or the Stormwater Management and Combined Sewer Overflow Abatement Fund established by the Stormwater Management and Combined Sewer Overflow Abatement Bond Act of 1989 (P.L. 1989, c.181).

"Grab sample" means a single sample collected at a particular time and place.

"Grant agreement" means a legal instrument executed between the State and a grant recipient which authorizes financial assistance and establishes the terms and conditions thereof to implement the provisions of this chapter.

"Grant modification" means any written alteration of the terms or conditions, budget or project method or other administrative, technical or financial provisions of the grant agreement.

"Ground water" means water below the land surface in a zone of saturation.

"Governing body" means chief legislative body of a local government unit or affected municipality.

"Hazardous waste facility" means a facility used for treating, storing, or disposing of hazardous waste as defined in N.J.A.C. 7:26-1.4.

"Individual subsurface sewage disposal system" means a type of septic system as defined in N.J.A.C. 7:9A-2.1.

"Industrial establishment" means any place of business or real property as defined in N.J.A.C. 7:26B-1.3.

"Industrial pollutants" means any non-domestic pollutants, including but not limited to, those pollutants regulated under Section 307(a), (b) or (c) of the Federal Water Pollution

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Control Act, 33 U.S.C. 1251 et seq. and any amendments thereto.

"Interconnection" means the non-physical connection of sanitary sewer system with a stormwater sewer system. Interconnections may include, but are not limited to, leaks, flows or overflows from the sanitary sewer system into the stormwater sewer system, or vice versa.

"Interconnection/cross-connection abatement facilities" includes, but is not limited to, any equipment, plants, structures, machinery, or apparatus, or any combination thereof, acquired, used, constructed or operated by, or on behalf of, an affected municipality for storage, collection, reduction, recycling, disinfection, reclamation, disposal, separation or other treatment essential to the abatement of interconnections and/or cross-connections.

"Interconnection/Cross-Connection Abatement Account" means the component of the Municipal Stormwater Management and Combined Sewer Overflow Abatement Assistance Fund or the Stormwater Management and Combined Sewer Overflow Abatement Fund, as determined by the Department, which will be used to provide grants to affected municipalities for the planning or design of interconnection/cross-connection abatement facilities.

"Local government unit" means a county, municipality, or county sewerage or utility authority, municipal sewerage or utility authority, municipal sewerage district, joint meeting, or any other political subdivision of the State or public entity authorized to control or operate a combined sewer system.

"Municipality" means a city, town, borough, county, village, parish, district, association or other public body created by or under State law.

"NJPDES" means the "New Jersey Pollutant Discharge Elimination System" as defined in N.J.A.C. 7:14A-1.9.

"Nonpoint source" means a contributing factor to water pollution as defined in N.J.A.C. 7:14A-1.9.

"Person" means an individual, corporation, company, partnership, firm, association, political subdivision of this State and any state, Federal or interstate agency, or an agent or employee thereof.

"Planning" includes, but is not limited to, the preliminary planning to determine the economic and engineering feasibility of appropriate abatement facilities.

"Pollutant" means the same definition of pollutant at N.J.A.C. 7:14A-1.9.

"Preliminary map" means the map which identifies the locations of stormwater outfalls and stormwater management basins within the geographical boundaries of an affected municipality in accordance with the requirements in N.J.A.C. 7:22A-3.10.

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"Priority outfall" means any stormwater outfall discharging to salt waters listed as impaired on the 2004 New Jersey Department of Environmental Protection Integrated Water Quality Monitoring and Assessment Report, sublists 3, 4, and 5, as revised and amended in accordance with section 305(b) of the Federal Water Pollution Control Act (33 U.S.C. §§ 1251 et seq.).

"Priority System, Intended Use Plan and Project Priority List" means the document through which projects are evaluated and ranked for funding eligibility by the Department in conformance with State law and the Federal Water Pollution Control Act Amendments of 1972 (33 U.S.C. 1251 et seq.) and any amendatory or supplementary acts thereto.

"Project" means the defined services as approved by the Department in the grant agreement.

"Recipient" means any applicant which has received financial assistance pursuant to this chapter.

"Recycling center" means a facility designed to process recyclable materials as defined in N.J.A.C. 7:26-1.4.

"Salt waters" means waters having salinities generally greater than 3.5 parts per thousand at mean high tide.

"Sanitary sewer system" means a network of pipes, conduit or other physical facilities used to carry wastewater to a wastewater treatment facility. A sanitary sewer system shall not include a system which carries only stormwater.

"Scope of work" means the detailed description of the extent of services required to complete the project as specified in the grant agreement.

"Socially disadvantaged individuals" as defined in 15 U.S.C. 637(a)(5) means those individuals who have been subjected to racial and ethnic prejudice or cultural bias because of their identity as a member of a group without regard to their individual qualities. 15 U.S.C. 637(d)(3) presumes that socially and economically disadvantaged individuals include Black Americans, Hispanic Americans, Native Americans, Asian Pacific Americans, and other minorities.

"Solids/floatables" means any wastes or debris floating, suspended or otherwise contained in wastewater or waters of the State.

"Solid waste facility" means any system, site, equipment or building which is utilized for the storage, collection, processing, transfer, transportation, separation, recycling, recovering or disposal of solid waste but shall not include a recycling center.

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"State" means the State of New Jersey.

"Stormwater" means waters which result primarily from surface runoff and includes street wash water and drainage.

"Stormwater management basin" means a basin which temporarily impounds stormwater runoff and discharges it through a hydraulic outlet structure or through infiltration to the surrounding soil. A stormwater management basin shall include but not be limited to detention basins, retention basins and infiltration basins.

"Stormwater outfall" means the endpoint of a stormwater sewer system, or any portion thereof, where there is a direct discharge to surface waters.

"Stormwater sewer" means a sewer intended to carry only stormwater.

"Stormwater sewer system" means the designed features within a municipality which collect, convey, channel, hold, inhibit or divert the movement of stormwater.

"Subagreement" means a written agreement between a recipient and another party and any lower tier agreement for services or supplies necessary to complete the project.

"Surface waters" means any waters of the State which are not ground water.

"Value engineering" means a specialized cost control technique which uses a systematic and creative approach to identify and to focus on unnecessarily high costs in a project in order to arrive at a cost saving without sacrificing the reliability or efficiency of the project.

"Viral indicator test" means an analytical methodology using the F+ RNA coliphages to distinguish between human and non-human contamination by serotyping the phages detected.

"Wastewater" means residential, commercial, industrial, or agricultural liquid waste, septage, stormwater runoff or any combination thereof, or other residue discharged or collected into a sanitary or stormwater sewer system, or any combination thereof.

"Wastewater treatment facilities" includes, but is not limited to, any equipment, plants, structures, machinery, apparatus, or land that shall be an integral part of the treatment process or used for the ultimate disposal of residues resulting from such treatment, or any combination thereof, acquired, used, constructed, or operated by or on behalf of a local government unit for the storage, collection, reduction, recycling, reclamation, disposal, separation or other treatment of wastewater, wastewater sludges, septage or industrial wastes, including but not limited to, pumping and ventilating stations, treatment systems, plants and works, connections, extensions, outfall sewers, combined sewer overflows, intercepting sewers, trunklines, sewage overflows, sewage collection systems, and other equipment, personal property and appurtenances necessary thereto.

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"Water Quality Management Plans" means the plans prepared pursuant to Section 208 and 303 of the Clean Water Act (33 U.S.C. 1251 et seq.) and the Water Quality Planning Act (N.J.S.A. 58:11A-1 et seq.).

"Waters of the State" means the ocean and its estuaries, all springs, streams and bodies of surface or ground water, whether natural or artificial, within the boundaries of this State or subject to its jurisdiction.

7:22A-1.5 Fund procedures

(a) The moneys appropriated pursuant to the Sewage Infrastructure Improvement Act and any interest earned thereon shall be deposited in a separate interest bearing account known as the Municipal Stormwater Management and Combined Sewer Overflow Abatement Assistance Fund. The moneys available pursuant to the Stormwater Management and Combined Sewer Overflow Abatement Bond Act of 1989 shall be deposited in a separate interest bearing account known as the Stormwater Management and Combined Sewer Overflow Abatement Fund.

(b) The Department may provide grants to affected municipalities and other local government units to implement the requirements of this chapter.

(c) Prior to awarding any grant money from the Municipal Stormwater Management and Combined Sewer Overflow Abatement Assistance Fund pursuant to the Sewage Infrastructure Improvement Act, the Department shall, in writing, notify the presiding officers of both houses of the State Legislature of the applications received, the grant recipients, the amounts requested, the amounts to be awarded and the purposes for which the grants shall be used.

(d) The Department shall not award any grant money from the Stormwater Management and Combined Sewer Overflow Abatement Fund pursuant to the Stormwater Management and Combined Sewer Overflow Abatement Bond Act of 1989 unless the expenditure is authorized pursuant to an appropriations act.

7:22A-1.6 Administration and performance of grant agreements

The grant recipient is responsible for the administration and success of the project, notwithstanding any subagreements made by the recipient for accomplishing grant objectives. Although recipients are encouraged to seek the advice and opinion of the Department on problems that may arise, the giving of such advice shall not shift the responsibility for final decisions from the recipient to the Department. Moneys awarded pursuant to this chapter shall be used in conformance with the Act, this chapter and the provisions of the grant agreement to achieve the grant objectives and to insure that the purposes set forth in the Act are fully executed.

7:22A-1.7 Enforcement

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(a) Failure by any person to comply with any requirement of the Act including, but not limited to, a violation of any rule, grant agreement, license, permit, or administrative order may result in a penalty assessed by the Department in accordance with N.J.A.C. 7:14-8 or any other enforcement action provided in the Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq.

(b) Any municipality or public entity controlling or operating a stormwater sewer system with an unpermitted interconnection or cross-connection may bring an action in their name to require the elimination of these connections to their stormwater sewer systems in accordance with the penalty provisions of the Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq.

(c) In order to implement this chapter, all affected municipalities shall ensure that they have access to stormwater and sanitary sewer systems that are not municipally owned and operated. Affected municipalities may ensure such access by adopting an ordinance in accordance with N.J.S.A. 40:48-2; by adopting an ordinance, through their local board of health, in accordance with N.J.S.A. 26:3-33 or 3-64; by entering into agreements with private parties; or by other means that provide municipal access.

7:22A-1.8 Noncompliance

(a) In addition to any other remedies as may be provided by law or by the grant agreement, in the event of noncompliance with any provision of the Act, any condition of the grant agreement or any requirement of this chapter, the Department may take any of the following actions or combinations thereof:

1. Issue a notice of noncompliance pursuant to N.J.A.C. 7:22A-1.9;
2. Withhold grant moneys pursuant to N.J.A.C. 7:22A-1.10;
3. Order suspension of project work pursuant to N.J.A.C. 7:22A-1.11;
4. Terminate the grant agreement or rescind the grant moneys pursuant to N.J.A.C. 7:22A-1.12 or N.J.A.C. 7:22A-1.13; and/or
5. Issue administrative orders of enforcement pursuant to the New Jersey Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq.

7:22A-1.9 Notice of noncompliance

Where the Department determines that the recipient is not in compliance with any provision of the Act, any condition of the grant agreement, or any requirement of this chapter, it will notify the recipient of the noncompliance. The Department may require the recipient, its engineer and/or contractor to take and complete corrective action within 10 working days of receipt of notice. If the corrective action is not taken or the action

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taken is inadequate, then the Department may issue a stop-work order, withhold disbursement or seek other relief. The Department may, however, withhold disbursement or issue a stop-work order pursuant to N.J.A.C. 7:22A-1.10 and 1.11 without the prior issuance of a notice pursuant to this section.

7:22A-1.10 Withholding of funds

The Department may withhold, upon written notice to the recipient, grant disbursements or any portion thereof where it determines that a recipient has failed to comply with any provision of the Act, any condition of the grant agreement or any requirement of this chapter.

7:22A-1.11 Stop-work orders

(a) The Department may order work to be stopped for good cause, which shall include, but not be limited to the following:

1. Default by the recipient; or
2. Noncompliance with any provision of the Act, any requirement of this chapter or any provision of the grant agreement.

(b) The Department shall limit the use of stop-work orders to those situations where it is advisable to suspend work on the project or portion or phase of the project for important Department considerations.

(c) Prior to issuance of a stop-work order, the Department shall afford the recipient an opportunity to discuss the stop-work order with the Department. The Department shall consider such discussions in preparing the order.

(d) Stop-work orders shall contain:

1. The reasons for issuance of the stop-work order;
2. A clear description of the work to be suspended;
3. Instructions as to the issuance of further orders by the recipient for materials or services;
4. The duration of the stop-work order; and
5. Other suggestions from the Department to the recipient for minimizing costs.

(e) The Department may, by written order to the recipient (certified mail, return receipt requested), require the recipient to stop all, or any part of, the project work for a period of not more than 45 days after the recipient receives the order, and for any further period to

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which the parties may agree.

(f) The effects of a stop-work order are as follows:

1. Upon receipt of a stop-work order, the recipient shall immediately comply with the terms thereof and shall minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage. Within the period of the stop-work order or within any extension of that period to which the parties shall have agreed, the Department shall either:

- i. Rescind the stop-work order, in full or in part;
- ii. Terminate the work covered by such order as provided in N.J.A.C. 7:22A-1.12; or
- iii. Authorize resumption of work.

2. If a stop-work order is rescinded or the period of the order or any extension thereof expires, the recipient shall promptly resume the previously suspended work. An equitable adjustment shall be made in the project schedule, and/or the project, and the grant agreement shall be modified if necessary. However, additional project costs as a result of the stop-work order shall be the responsibility of the recipient.

7:22A-1.12 Termination of the grant agreement

(a) Termination of the grant agreement by the Department shall be conducted as follows:

1. The Department may terminate the grant agreement in whole or in part for good cause, which shall include but not be limited to:

- i. Substantial failure to comply with the terms and conditions of the grant agreement;
- ii. Default by the recipient;
- iii. A determination that the grant moneys were obtained by fraud;
- iv. Substantial performance of the project work has not occurred;
- v. Gross abuse or corrupt practices in the administration of the project have occurred; or
- vi. Grant moneys have been used for unallowable costs.

2. The Department shall give a written notice to the recipient (certified mail, return receipt requested) of its intent to terminate the grant agreement in whole or in part, at least 30 days prior to the intended date of termination.

3. The Department shall afford the recipient an opportunity for consultation prior to any

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termination. After such opportunity for consultation, the Department may, in writing (certified mail, return receipt requested), terminate the grant agreement in whole or in part.

(b) Termination of the grant agreement by the recipient shall be conducted as follows:

1. A recipient shall not unilaterally terminate the project work for which grant moneys have been awarded except for good cause and subject to negotiation and payment of appropriate termination settlement costs. The recipient shall promptly give written notice to the Department of any complete or partial termination of the project work by the recipient or intent thereof. The term "good cause" shall include, but not be limited to, circumstances beyond the control of the recipient such as fire, flood, riot or strike.

2. If the Department determines that there is good cause for the termination by the recipient of all or any portion of a project for which the grant moneys have been awarded, the Department may enter into a termination agreement or unilaterally terminate the grant agreement effective with the date of cessation of the project work by the recipient. The determination of whether there is sufficient good cause shall be solely within the discretion of the Department. If the Department determines that there is not sufficient good cause, the recipient shall remain bound by the terms and conditions of the grant agreement.

3. If the Department determines that a recipient has ceased work on a project without good cause, the Department may unilaterally terminate the grant agreement pursuant to this section or rescind the grant pursuant to N.J.A.C. 7:22A-1.13.

(c) The Department and recipient may enter into a mutual agreement to terminate at any time pursuant to terms which are consistent with this chapter. The agreement shall establish the effective date of termination of the project and the schedule for repayment of financial assistance.

(d) Upon termination by either the Department or the recipient, the recipient may be required to immediately refund or repay the entire amount of the grant moneys received from the State and waive the undistributed balance. The Department may, at its discretion, require the immediate repayment of a specific portion of the grant and allow the remainder to be repaid in accordance with a repayment schedule. The recipient shall reduce the amount of outstanding commitments insofar as possible and report to the Department the uncommitted balance of grant moneys awarded under the grant agreement. The recipient, upon termination, shall make no new commitment without the Department's specific approval thereof. The Department shall make the final determination of the allowability of termination costs.

(e) In addition to any termination action, the Department retains the right to pursue other remedies as may be available under State law as warranted.

7:22A-1.13 Rescission of grant funds

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(a) The Department may, in writing, rescind the grant if it determines that:

1. Without good cause therefor, substantial performance of the project work has not occurred;
2. The grant was obtained by fraud; or
3. Gross abuse or corrupt practices in the administration of the project have occurred.

(b) At least 30 days prior to the intended date of rescission, the Department shall give a written notice to the recipient (certified mail, return receipt requested) of its intent to rescind the grant. The Department shall afford the recipient an opportunity for consultation prior to rescission of the grant. Upon rescission of the grant, the recipient shall return all grant funds previously paid to the recipient. The Department shall make no further payments to the recipient. In addition, the Department retains the right to pursue such remedies as may be available under State law.

7:22A-1.14 Fraud and other unlawful or corrupt practices

(a) The recipient shall administer moneys pursuant to this chapter and the grant agreement and award subagreements pursuant to those funds free from bribery, graft and corrupt practices. The recipient has the primary responsibility for the prevention, detection and cooperation in the prosecution of any such conduct. The State shall also have the right to pursue administrative or other legally available remedies.

(b) The recipient shall pursue available judicial and administrative remedies and take appropriate remedial action with respect to any allegations or evidence of such illegality or corrupt practices. The recipient shall immediately notify the Department when such allegation or evidence comes to its attention and shall periodically advise the Department of the status and ultimate disposition of any related matter.

7:22A-1.15 Debarment

(a) No recipient shall enter into a subagreement for work on a project with any person debarred, suspended or disqualified from Department contracting pursuant to N.J.A.C. 7:1D-2.

(b) Recipients shall insert in every subagreement for work on a project a clause stating that any party to any subagreement may be debarred, suspended or disqualified from contracting on any project financially assisted by the State or the Department if the party commits any of the acts listed in N.J.A.C. 7:1D-2.2.

(c) The recipient, after executing the grant agreement but prior to the acceptance of grant moneys, shall certify that no party to any subagreement is included on the State Treasurer's list of debarred, suspended and disqualified bidders as a result of action by a

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State agency in addition to that of the Department. If the grant moneys are used for disbursement to a debarred firm, the Department reserves the right to immediately terminate the grant agreement pursuant to N.J.A.C. 7:22A-1.12 and/or to take such other action pursuant to this subchapter as may be appropriate.

(d) Any person included on the State Treasurer's list as a result of action by a State agency, who is or may become a bidder on any subagreement which is or shall be funded from the Fund under this chapter, may present information to the Department why this section should not apply to such a person. If the Department determines that it is essential to the public interest and files a finding thereof with the New Jersey Attorney General, the Department may grant an exception from the application of this section with respect to a particular contractor in keeping with N.J.A.C. 7:1D-2.9. In the alternative, the Department may suspend or debar any such person, or take such action as may be appropriate, pursuant to N.J.A.C. 7:1D-2.

7:22A-1.16 Administrative hearings

(a) To request an administrative hearing on a contested case, an affected municipality, local government unit or other municipality aggrieved by a decision or action of the Department may, within 20 calendar days from receipt of the decision or action, submit a written request to the Department which shall include the following information:

1. The name, address, and telephone number of the party requesting the hearing and its authorized representative, if any;
2. The position of the requester on each question of law and fact at issue and its relevance to the Department's decision;
3. Information supporting the requester's position and copies of other written documents relied upon to support the request for a hearing;
4. An estimate of the time required for the hearing (in days and/or hours); and
5. A request, if necessary, for a barrier-free hearing location for disabled persons.

(b) A hearing request not received within 20 days after receipt by the requester of the decision or within 20 days of the Department's action being challenged shall be denied by the Department.

(c) If the requester fails to include all the information required by (a) above, the Department may deny the hearing request.

(d) During the pendency of the review and hearing, the challenged Department decision or action shall remain in full force and effect, unless a stay has been requested in writing and granted by the Department.

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(e) Following receipt of request for a hearing pursuant to (a) above, the Department may attempt to settle the dispute by conducting such proceedings, meetings, and conferences as deemed appropriate.

(f) If it grants the request for a hearing, the Department will file the request for a hearing with the Office of Administrative Law. The hearing shall be conducted in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

7:22A-1.17 Use and disclosure

All applications and submissions, when received by the Department, constitute public records of the Department. The Department shall make them available to persons who request their release to the extent required by State law.

7:22A-1.18 Access

(a) The recipient and any party to a subagreement shall provide to the Department and any authorized representative of the Department access to the facilities, premises and records related to the project. All subagreements executed by the recipient shall contain provisions allowing the Department access to the facilities, premises and records related to the project.

(b) The recipient shall submit to the Department such documents and information as requested by the Department.

(c) The recipient, and all parties to a subagreement which contract directly with the recipient to receive a portion of State moneys, may be subject to a financial audit.

(d) All records pertinent to the grant agreement shall be retained and available to the Department for a minimum of three years after issuance of the final payment by the Department, until the final audit has been made by the Department or until otherwise required by law.

7:22A-1.19 Publicity

Press releases and other public dissemination of information by the recipient concerning the project work shall acknowledge State financial assistance.

7:22A-1.20 Severability

If any provision of this chapter or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications, and to this end, the provisions of this chapter are declared to be severable.